



Appeal Statement

Removal of Planning Condition
AT
Barton Hill Fields Farm, Main Street,
Barton In The Beans, Nuneaton CV13 0DJ

Reference:
BHFF-2736

Date:
9 May 2025

1. Introduction

- a. This Appeal Statement has been prepared by Just Planning on behalf of Mr Chris Mee to support an appeal against the decision of Hinckley & Bosworth Borough Council to refuse a planning application under Section 73 of the Town and Country Planning Act 1990 to remove a planning condition from an earlier grant of planning permission.
- a. Following a description of the site and surrounding area, the report sets out the planning history and outlines the case for the appellant.
- b. It will be demonstrated that the proposal is acceptable in planning terms and that planning permission should therefore be granted.

2. Background

- a. On 4 August 2024, the appellant submitted an application (reference: 24/00757/CONDIT) to Hinckley & Bosworth Borough Council for the following development:

*Variation of condition 3 attached to planning permission 16/00640/FUL.
To allow permitted development rights to be reinstated.*

- b. On 13 November 2024, the council informed the appellant that planning permission had been refused, for the following reason:

1. *The removal of condition 3 of permission 16/00640/FUL is not acceptable. The condition passes the six tests, and the purpose of the condition to ensure that the size and scale appropriate to the proper functioning and needs of the rural enterprise, thus preventing any unacceptable impact on the character and appearance of the area, is still applicable. As such the proposal would not be in accordance with Policy DM5 of the Site Allocation and Development Management Policies DPD 2016 (SADMP) and Paragraph 84 of the National Planning Policy Framework (2023).*

3. Site Description

- a. Barton Hill Fields Farm is a substantial rural property comprising 4.5 hectares (approximately 11 acres) of land situated off Congerstone Lane/Main Street, to the west of the settlement of Barton in the Beans in Leicestershire. The site is located in open countryside, outside any defined settlement boundary.
- b. The property consists of a timber log cabin dwelling, multiple stable buildings totalling 20 stables, a horse-riding arena, paddocks and grazing land, and an access track.
- c. The timber log cabin is single-storey and modest in proportions, measuring 13.6m in length, 6.1m in width, with an eaves height of 2.3m and a ridge height of 3.2m.
- d. The cabin provides a kitchen, living space and two bedrooms. It is located to the east of the much larger stable buildings. The cabin and associated equestrian facilities are shown in the satellite image in figure 1, below.



Figure 1: Satellite image of the appeal site, with the stables on the left and the log cabin on the right.

4. Planning History

- a. Planning permission was first granted in March 1995 (ref: 95/00088/FUL) for the erection of 16 stables, tack room, Dutch barn and access drive, establishing the equestrian use of the site.
- b. In September 2008, permission was granted (ref: 08/00700/FUL) for the extension and change of use of an existing agricultural building to equestrian use as stables, tack room and storage, and for the construction of a manège.
- c. In March 2011, planning permission was granted (ref: 10/00920/FUL) for the *"siting of a temporary occupational dwelling"* in the form of a log cabin. This was approved for a three-year period to allow the applicant to demonstrate the viability of the livery business.
- d. In December 2013, permission was granted (ref: 13/00910/CONDIT) for the *"variation of condition 1 of planning permission 10/00920/FUL to allow siting of temporary occupation dwelling for an additional three years"*. The planning officer noted that the enterprise had increased since the new owner took over, and that there remained a functional need for a dwelling on site.
- e. In July 2015, planning permission was granted (ref: 15/00550/FUL) for the *"erection of six stables and tack room"*. This was implemented in autumn 2015, bringing the total number of stables to 20.
- f. In September 2016, planning permission was granted (ref: 16/00640/FUL) for the *"retention of log cabin for permanent occupation as a dwelling"*.
- g. Condition 2 on that consent restricted the occupation of the dwelling to a person *"solely or mainly employed in the livery business located in the buildings to the west of the timber log cabin"* and their dependents.
- h. Condition 3 was worded as follows:

Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) the dwellinghouse hereby approved shall not be extended without the grant of planning permission for such extensions by the Local Planning Authority.

- i. The reason given for the condition was:

To ensure the dwelling remains of a size and scale appropriate to the proper functioning and needs of the rural enterprise in accordance with Policy DM5 of the Site Allocations and Development Management Policies DPD

- j. The appellant bought the site in February 2024. He and his wife run the livery business at the site, as required by Condition 2. They have three children under the age of twelve. They request that Condition 3 be removed so that they may make modest extensions to the dwelling on the site so that it may accommodate their family's needs.

5. Planning Policy

- a. Planning law states that planning decisions must be taken in accordance with the statutory development plan unless material considerations indicate otherwise. In this case, the most relevant document of the development plan is the Site Allocations and Development Management Policies DPD (SADMP) (2016).
- b. Policy DM4 (Safeguarding the Countryside and Settlement Separation) seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside by safeguarding it from unsustainable development. Development in the countryside is considered sustainable where it relates to the provision of accommodation for a rural worker in line with Policy DM5.
- c. Policy DM5 (Enabling Rural Worker Accommodation) is the primary policy used by the council to refuse the application. It allows for rural worker accommodation as an exception to the general restriction on new homes in the countryside where:
 - *It is essential for workers to be readily available at most times for the proper functioning of the rural enterprise;*
 - *The rural enterprise is economically sustainable with clear prospects of remaining so;*
 - *There are no available existing dwellings or suitable buildings for conversion in the local area; and,*
 - *The proposed dwelling is of a size and scale appropriate to the proper functioning and needs of the rural enterprise.*
- d. Policy DM10 (Development and Design) requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- e. The National Planning Policy Framework (NPPF), adopted on 12 December 2024, sets out the government's national planning policies and how these policies should be applied. It identifies a presumption in favour of sustainable development. Development is sustainable when it meets the economic, social and environmental needs of a community.

- f. Paragraph 84 states that planning policies and decisions should avoid the development of isolated homes in the countryside unless there are special circumstances, including *"an essential need for a rural worker to live permanently at or near their place of work in the countryside"*. This national policy provides the framework for considering rural workers' dwellings.

- g. Paragraph 56 states that:

"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations."

- h. Paragraph 57 sets out 6 tests for planning conditions:

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

- i. According to paragraph 55:

"...planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so."

- j. According to the paragraph 017 of the national Planning Practice Guidance (PPG) (Reference ID: 21a-017- 20190723):

"Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn."

Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity."

The local planning authority also has powers under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to enable them to withdraw permitted

development rights across a defined area, where justified."

- k. Circular 11/95, the precursor to the PPG, also noted that permitted development conditions should only be imposed 'exceptionally' and there should be a presumption against such restrictions with clear evidence of serious adverse effects on amenity or the environment to justify restrictions of this kind.
- l. According to paragraph 023 of the PPG (Reference ID: 21a-023-20140306):

"Clear and precise reasons must be given by the local planning authority for the imposition of every condition."

6. Case for the Appellant

- a. The log cabin at the appeal site was originally granted permission on a temporary basis as essential workers' accommodation, before permanent consent was given in 2016.
- b. Condition 2 on that consent limits occupation to a person running the associated livery business only, along with their dependents. The council does not dispute that the appellant and his family occupy the dwelling in compliance with that condition.
- c. The appellant seeks the removal of Condition 3, which withdraws most conventional homeowner permitted development rights, so that he can make modest adjustments to the house to provide more comfortable accommodation for him and his family. The log cabin, though now a permanent dwelling, was initially built as a temporary structure and has cramped and awkward living accommodation.
- d. The council's objection to the removal of Condition 3 relates solely to the equestrian occupation restriction – it does not suggest that the reinstatement of permitted development rights would cause any other planning harm, such as harming the character and appearance of the log cabin itself, harming the rural character of the area or causing harm to neighbours' living conditions.
- e. The sole issue in this appeal is therefore whether the condition is reasonable and necessary in respect of the functional relationship between the dwelling and the associated livery business.
- f. The NPPF and PPG strongly discourage the use of planning conditions to remove permitted development rights, saying that they should be used rarely and only with clear justification. As part of the 6 tests, the NPPF requires that conditions be reasonable and necessary to make the proposal acceptable in planning terms.
- g. Contrary to the case made by the council in the officer's report for the application, it is not at all clear that it would not have been possible to grant permission for the permanent dwelling in the absence of the condition. The assessment of 16/00640/FUL confirmed that there was a reasonable need for someone to be living onsite permanently to take care of the associated business, and that their dependents could live with them.

- h. The officer's report for 16/00640/FUL does not justify (or even mention) the withdrawal of permitted development rights and Condition 3 is not listed as one of the recommended conditions at the end of the report.
- i. The original consent was temporary on the basis that the council wanted confirmation that the business was sustainable. It expanded substantially over the temporary permission period, and the council was duly determined that it was economically sustainable. A permanent consent was given on the basis that it was considered sustainable on a permanent basis. The grant of a permanent permission meant that the owners of the business and occupiers of the dwelling need no longer prove that the business was sustainable on a regular basis.
- j. It is not clear that the sustainability of the business is a material planning consideration when it comes to an application to reinstate permitted development rights. The log cabin is a permanent dwelling. Permitted development rights allow minor changes to permanent dwellings to suit the needs of homeowners. Extensions that are greater in scale or impact typically require full planning permission. The government's intention in introducing the General Permitted Development Order (GPDO) was to remove almost all homes from the need to apply for planning permission for minor extensions and alterations. There is nothing at all in the GPDO to suggest that homes with a tie to an equestrian business should not have the same rights as any other home.
- k. The condition does not meet the test in the NPPF that it be 'relevant to the development being proposed'. The development being proposed was making permanent an existing dwelling. Limited, hypothetical, future, small-scale alterations to that dwelling were not relevant to the council's considerations.
- l. The council's case is that it wants to keep the size of the dwelling commensurate with the equestrian business and the holding. But it does not explain why it considers that the exercise of permitted development rights would necessarily make the house disproportionate to the business and holding. It does not set out what it considers is the appropriate size of the dwelling relevant to the business. It does not explain what planning harm would follow from the appellant extending the house within the limits set by the GPDO.
- m. In the officer's report for the permission that made the dwelling permanent, it concluded that the dwelling was sufficient in size to meet the needs of the then owner and their partner, and the current owner simply has a larger family and different needs.

- n. The current size of the house is arbitrary. It is what was originally proposed as temporary accommodation by a previous owner, presumably reflecting their needs, preferences and construction budget. There is no indication that this is as large as the house was allowed to be, nor that modest extensions would make it disproportionately large.
- o. In any case, permitted development rights are specifically designed so that they are limited in size, scale and impact. In other words, they are unlikely to allow development that would be disproportionate to the business or the site. The regulations in the GPDO place limits on the size, siting and design of householder alterations - for example, extensions to dwellings are generally limited to a single-storey and must usually be at the rear of the property.
- p. In this case, site circumstances already limit the permitted development rights available to the appellant. The roof is not tall enough to be converted, for example, and the curtilage of the site limits the extent to which the house can be extended.
- q. The council does not quote any adopted development plan policies that say dwellings subject to a rural business occupancy condition should be subject to greater restrictions on how they may be extended by their occupants, much less that they may not enjoy conventional permitted development rights.
- r. The council's decision relies on policy DM5, but this policy is relevant only to the creation of new rural workers' dwellings in the countryside, it does not provide guidance on whether, or how, existing dwellings might be altered or extended.
- s. The officer's report argues that *"it cannot be robustly demonstrated that a larger dwelling is necessary for the enterprise to function"*. However, this misunderstands the nature of the application. It is not an application to increase the size of the dwelling, it is an application to return to the appellant his standard permitted development rights. Those rights are not related to the functioning of the enterprise. There is no policy requirement that the appellant demonstrate that the reinstatement of permitted development rights must be connected to the operation of the business.
- t. The council does not consistently remove permitted development rights when granting permission for rural workers' dwellings. In May 2021, it approved a permanent agricultural worker's dwelling at New Oak Farm, close to the appeal site. The approval, a copy of which is provided in the appendices, has a condition

limiting occupancy to persons working in agriculture, but there is no condition removing permitted development rights. The officer's report for that approval, also provided in the appendices, does not consider whether permitted development rights should be removed.

- u. In several recent appeal decisions relating to rural workers' dwellings, planning inspectors have consistently recognised that conditions removing permitted development rights should only be imposed in exceptional circumstances and have frequently removed or refused such conditions where they were deemed unnecessary.
- v. In an appeal at Tumley Lofts Stud (APP/Q1153/W/24/3341365), the inspector stated that:

"Although the Council has suggested a condition to remove householder permitted development rights (PDR), there is no robust evidence before me to suggest that the availability of such rights would undermine the role of the property as a rural worker's dwelling in the future or cause harm to the character or appearance of the area. As such, there is insufficient justification for the removal of PDR in this case"

- w. Similarly, in an appeal at Land at Stokes Marsh Lane (APP/Y3940/W/21/3270044), an inspector declined to include the council's suggested condition removing permitted development rights for additional outbuildings or additions at the site. The inspector found that:

"the permitted development rights that would relate to a holding of this scale place sufficient restrictions on the size and extent of what could be built and would sufficiently safeguard the visual amenities of the area from any unacceptable development."

- x. In a similar appeal decision (APP/X1545/W/23/3327933), the inspector allowed a temporary rural worker's dwelling without imposing permitted development restrictions, acknowledging that normal permitted development controls would be sufficient for a site of this nature.
- y. These decisions align with the advice in the National Planning Policy Framework and Planning Practice Guidance that conditions restricting future permitted development rights should only be used in rare circumstances and where there is clear evidence that such a restriction is necessary.
- z. Copies of the appeal decisions mentioned above are provided in the appendices.

7. Conclusions

- a. This appeal seeks to reinstate normal permitted development rights to a permanent rural worker's dwelling that has been established at the site for over a decade. The dwelling is modest in size, comprising a timber log cabin with two bedrooms that accommodates the appellant and his family who run the associated livery business.
- b. The condition removing permitted development rights fails to meet the six tests set out in Paragraph 57 of the NPPF. It is neither necessary nor reasonable to ensure the acceptability of the development. The dwelling's status as permanent has already been established, and the rural worker occupancy condition (Condition 2) adequately ensures the ongoing connection between the dwelling and the associated business.
- c. National policy and guidance, including Paragraph 55 of the NPPF and Paragraph 017 of the Planning Practice Guidance, explicitly discourage the use of conditions to withdraw permitted development rights except in rare circumstances with clear justification. No such exceptional circumstances or clear justification were provided when the condition was imposed in 2016.
- d. The council's assertion that removing the condition would conflict with Policy DM5 is misplaced. This policy applies to the establishment of new rural workers' dwellings, not to the management of existing dwellings. The dwelling's permanence was already established in 2016 when the council concluded that the rural enterprise was economically sustainable.
- e. Permitted development rights are already strictly limited by the GPDO in terms of scale and impact. Any extensions permitted under these rights would, by definition, be modest and proportionate, and would not alter the fundamental relationship between the dwelling and the business. The dwelling would remain subject to the occupancy condition regardless of any modest extensions.
- f. The dwelling's current size and layout reflect the needs of the previous occupants, not an objective assessment of what is appropriate for the business. The appellant and his family have different spatial requirements to operate the same business effectively, and the reinstatement of permitted development rights would allow reasonable flexibility for the dwelling to evolve with the needs of the business operators.

- g. For these reasons, the appellant respectfully requests that the appeal be allowed and Condition 3 be removed from planning permission 16/00640/FUL, reinstating normal permitted development rights to this permanent dwelling.



Just Planning Limited
Email: info@just-planning.co.uk

Just Planning HQ
42 Hampstead House
176 Finchley Road
London NW3 6BT

www.just-planning.co.uk

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